

1 Yvette D. Roland (SBN 120311)
2 E-mail: ydroland@duanemorris.com
3 865 S. Figueroa St., Suite 3100
4 Los Angeles, CA 90017-5450
5 Telephone: (213) 689-7400
6 Facsimile: (213) 689-7401
7

8 Gregory P. Gulia (admitted *pro hac vice*)
9 E-mail: gpgulia@duanemorris.com
10 Vanessa C. Hew (admitted *pro hac vice*)
11 E-mail: vchew@duanemorris.com
12 1540 Broadway
13 New York, NY 10036-4086
14 Telephone: (212) 692-1000
15 Facsimile: (212) 692-1020
16

17 Attorneys for Plaintiff
18 Living Assistance Services, Inc.
19 d/b/a Visiting Angels

20 **UNITED STATES DISTRICT COURT**
21 **CENTRAL DISTRICT OF CALIFORNIA**

22 LIVING ASSISTANCE SERVICES,
23 INC. d/b/a VISITING ANGELS

24 Plaintiff,
25
26 v.

27 VISITING ANGELS HOME HEALTH
28 SERVICES, INC., et al.

29 Defendants.

30 Case No.: 2:12-cv-09002-DSF-JC

31 DECLARATION OF VANESSA C.
32 HEW IN SUPPORT OF THE
33 AMENDED STIPULATION TO
34 MODIFY THE COURT'S
35 SCHEDULING AND CASE
36 MANAGEMENT ORDER

37 I, Vanessa C. Hew, declare as follows:

38 1. I am an attorney at Duane Morris LLP, attorneys for plaintiff Living
39 Assistance Services, Inc. d/b/a Visiting Angels ("Plaintiff") in the above-captioned
40 action.

41 2. I submit this declaration pursuant to Judge Fischer's individual practices
42 in support of the parties' Amended Stipulation to Modify the Court's Scheduling and
43 Case Management Order ("Amended Stipulation").

44 3. Plaintiff filed the Complaint in this matter on October 18, 2012 for (1)
45 Federal Trademark Infringement; (2) Federal Unfair Competition and False

1 Designation of Origin; (3) State Statutory Unfair Competition; (4) State Statutory
2 Dilution; and (5) Common Law Unfair Competition.

3 4. Plaintiff has attempted to conduct discovery in this matter. On July 19,
4 2013, Plaintiff hand served its first set of discovery requests on Defendants' counsel,
5 including Plaintiff's First Set of Requests for Production of Documents and Things,
6 Plaintiff's First Set of Interrogatories and Plaintiff's First Set of Requests for
7 Admission.

8 5. Defendants' responses to Plaintiff's first set of discovery requests were
9 due on August 19, 2013. However, on August 29, 2013, Kathleen Wilber,
10 Defendants' counsel's legal assistant, advised that Defendant, Naira Tshorokhyan,
11 was ill and unable to timely respond to Plaintiff's first set of discovery requests. To
12 date, Defendants have not produced any documents or other responses in response to
13 Plaintiff's discovery requests.

14 6. On October 4, 2013 and October 7, 2013, Plaintiff served a Rule 30(b)(6)
15 Notice of Deposition on Defendant Visiting Angels Home Health Services, Inc. and a
16 Rule 30(b)(1) Notice of Deposition on Defendant Naira Tshorokhyan.

17 7. Furthermore, the parties were scheduled to participate in a mediation on
18 August 19, 2013. On August 13, 2013, Defendants' counsel cancelled the scheduled
19 mediation stating that Defendant, Naira Tshorokhyan, had been unexpectedly
20 hospitalized, had recently undergone surgery and consequently could not participate in
21 the scheduled mediation because she was still under medical care.

22 8. To date, Defendants have not served any discovery requests or deposition
23 notices in connection with this action.

24 9. This request is the parties' second request to continue the dates set forth
25 in the Scheduling Order. The parties' first request was filed on October 11, 2013 and
26 stricken for failure to deliver a mandatory courtesy copy to Chambers in compliance
27 with Local Rule 5-4.5 and the Court's standing order. The Court also instructed
28

1 Counsel to review the Court's Scheduling Conference Order and, in particular, Exhibit
2 A to make sure any future requests comply with the Court's requirements.

3 10. The parties made a good faith attempt to comply with the Local Rule
4 5-4.5 and the Court's standing order by requesting that Apex Attorney Services
5 deliver a courtesy copy of the parties' Stipulation to Modify the Court's Scheduling
6 and Case Management Order and accompanying documents to Chambers by noon of
7 the following business day. Attached hereto as Exhibit 1 is a copy of the request that
8 was submitted to Apex Attorney Services.

9 11. The parties take notice of the Court's instructions and have carefully
10 reviewed the requirements set forth in the Court's Scheduling Conference Order,
11 particularly Exhibit A. The parties hereby submit an Amended Stipulation and
12 Proposed Scheduling Order which comports with the requirements set forth in the
13 Court's Scheduling Conference Order.

14 12. To date, the parties have not previously been granted an extension of the
15 deadlines set forth in the Court's Scheduling and Case Management Order.

16 I declare under penalty of perjury under 28 U.S.C. § 1746 that the foregoing is
17 true and correct.

18 Executed this 24th day of October, 2013 at New York, New York.

By: Vanessa C. Hew
Vanessa C. Hew (admitted *pro hac vice*)
E-mail: vchew@duanemorris.com
1540 Broadway
New York, New York 10036-4086
Telephone: (212) 692-1000
Facsimile: (212) 692-1020

Attorney for Plaintiff
Living Assistance Services, Inc. d/b/a Visiting
Angels

DM2\4556530.1